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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-130
Regulation title	Minimum Standards for Licensed Private Child-Placing Agencies
Action title	Changes to conform to federal, interstate, and state requirements
Document preparation date	October 20, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The amended regulation will be revised to reflect current federal and state law, interstate compact, and program policy and to reflect other federal and state requirements. Standards for treatment foster care will be added to reflect the current practice of licensed child-placing agencies and to allow certification of agencies for Medicaid reimbursement of treatment foster care case management services. Standards regulating intercountry adoptions, assisted conception, and independent living will also be added. The regulation will clarify and strengthen requirements for child-placing agency staff and foster and adoptive parents. The amended regulation will also respond to technical and programmatic questions that have been raised since 1989, update operational requirements including consolidating requirements for different programs as appropriate, clarify terms, increase consistency between and among programs, and make the regulation easier to understand.

The amended regulation is necessary to incorporate current program requirements at the federal and state level and provide standards for programs that have changed or expanded since 1989. A goal of the amended regulation is to integrate relevant federal, interstate, and state changes since

1989. The other major goal is to strengthen the regulation by addressing issues that have been raised during the past several years and by reorganizing and adding sections to make it more functional.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 63.2-217 of the Code of Virginia (Code) requires the State Board of Social Services (Board) to adopt regulations that are necessary or desirable to carry out Title 63.2. Sections 63.2-1701 and 63.2-1734 of the Code provide legal authority to the Board for licensure of child-placing agencies. These sections include the authority and responsibility of the Board for the development of regulations for activities, services, and facilities for those persons and agencies required to be licensed as child-placing agencies.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The amended regulation will incorporate comprehensive definitions pertaining to licensed child-placing agencies and the programs they operate.

It will provide a regulatory structure for programs for which licensed child-placing agencies have authority: foster care, adoption, interstate and intercountry placements, assisted conception, independent living placements, and treatment foster care.

It will add parts pertaining to international adoptions, assisted conception, and treatment foster care.

It will add and change provisions relevant to programs and operations in all parts to reflect federal, interstate, and state requirements and changes in the field since 1989, increase consistency of requirements, and address questions and issues that have arisen in the past several years.

It will consolidate administrative requirements for the various programs operated by licensed child-placing agencies, as appropriate. The administrative requirements will also delineate which requirements are exempted for local departments of social services that are certified to provide case management services for treatment foster care.

The intent of the changes is to protect the health, safety, and welfare of children by 1) strengthening requirements for child-placing agencies and those individuals who are approved to provide direct care for children and 2) offering services to assist children and their families.

The anticipated benefits of the regulation include:

- Virginia's citizens who apply to adopt will be protected by the requirements governing international and domestic adoptions;
- Families will be protected by requirements for counseling for birth parents; development and implementation of service plans for children; and increased involvement of birth parents and actions toward reunification, when appropriate;
- Families will be supported by availability of treatment foster care for children needing that service;
- Families will benefit from availability of program services covered in the regulation and from the knowledge that regulation standards offer a level of protection;
- Licensed child-placing agencies will benefit by having the services they offer given a higher level of credibility and accountability;
- Local departments of social services and Family Assessment and Planning Teams will benefit by knowing that licensed child-placing agencies are regulated and held accountable for the services they provide to children; and
- Government officials and the general public will have the general benefit of safeguards being in place for adoptions, foster care, independent living, and assisted conception.

There are no disadvantages to the public or the Commonwealth in implementing this regulation.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

The 1989 regulation was reviewed and found inadequate to cover the new services now being offered by licensed child-placing agencies. In addition, the regulation needs to reflect numerous federal and state requirements have been changed or added since 1989, including recodification of Title 63.1 of the Code as Title 63.2. Changes to the regulation are the only viable means of implementing different or new requirements for licensed child-placing agencies.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

This regulation respects the institution of the family and strengthens the rights of parents whose children are placed. It emphasizes the child-placing agency's responsibility to include birth parents in service planning and other decisions made for their children. It clarifies the roles, rights, and responsibilities of foster, treatment foster, and adoptive families. It preserves contact between children and their birth families, when possible and appropriate. It protects the family

by requiring release of information about children to prospective adoptive parents may wish to adopt.

This regulation strengthens marital commitment by requiring services to foster and adoptive parents who are having difficulty with children placed in their home. Marital commitment is also supported by services provided to birth parents and inclusion of birth parents in planning for services for their children and well as by the home study required for couples considering assisted conception.

This regulation may increase disposable family income by requiring agencies to 1) assess adoption assistance for adoptive families who qualify and 2) discuss and agree upon the fees that will be charged for adoptive home studies.